

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

PNC BANK, N.A.

Plaintiff,

v.

GATOR PIQUA PARTNERS, LLLP et al.

Defendants.

CASE NO. 3:12-cv-369
Trial Court Case No. 12-678

(Judge Walter Herbert Rice)
(Magistrate Judge Michael R. Merz)

**CONSENT JUDGMENT IN
MORTGAGE FORECLOSURE**

It appearing that Defendant Gator Piqua Partners, LLLP ("Gator Piqua") in its Answer to the Complaint consents to judgment against it on Counts Two and Three of the Complaint as to its obligations under the Mortgage at issue herein; and it further appearing that Plaintiff PNC Bank, National Association, Successor by Merger to National City Bank, owns the Mortgage at issue in this action; and it further appearing that under the Note, as that term is defined in the Complaint, Defendant Gator Piqua is indebted thereunder in some amount of principal plus accrued interest as of October 5, 2012, which continues to accrue at the per diem rate of \$73.73 (as may be adjusted by the terms of the Note at issue) until the sale of the Premises and Assets, as those terms are defined in the Complaint, together with costs through and after the date of the sale of the Premises and Assets (collectively, the "Indebtedness"); and it further appearing that the Mortgage at issue in this action secures the Note Indebtedness, it is, accordingly, hereby:

ORDERED, ADJUDGED and DECREED that judgment is entered, in favor of Plaintiff PNC Bank, National Association, Successor by Merger to National City

Bank, and against Defendant Gator Piqua Partners, LLLP, as follows:

- A. Foreclosing all right, title, lien and equity of redemption which said Defendant and all those claiming by, through or under them have or had in the Premises and Assets known as Piqua Plaza and located at 1923-1947 Covington Road (U.S. Route 36) in Washington Township, Miami County, Ohio, as more fully evidenced by Exhibits A and B hereto and ordering that the Premises be sold at foreclosure, with a Special Master appointed in this action having the power and authority pursuant to 28 U.S.C. Section 2001, et seq., and General Order No. 07-03 of the United States District Court for the Southern District of Ohio, to conduct said foreclosure sale; and
- B. Depositing the sale proceeds into the Court's registry account until such time as any amounts due under the Note, as secured by the Mortgage, may be determined by the Court.

SO ORDERED.

DATE: 11-13-12



The Honorable Walter H. Rice
United States District Judge

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Washington, County of Miami, State of Ohio, described as follows:

PARCEL NO. 1

SITUATED IN THE COUNTY OF MIAMI, IN THE STATE OF OHIO AND IN THE TOWNSHIP OF WASHINGTON AND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 24, TOWN 8, RANGE 5., EAST AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEING LOTS NUMBERED ONE (1) AND TWO (2) IN PIQUA PLAZA DEVELOPMENT, AS THE SAME ARE NUMBERED AND DELINEATED UPON THE RECORDED PLAT THEREOF, OF RECORD IN PLAT BOOK 13, PAGE 78, RECORDER'S OFFICE, MIAMI COUNTY, OHIO.

PARCEL NO. 2

TOGETHER WITH AN EASEMENT FOR A SHALLOW POND ONLY ON THE FOLLOWING DESCRIBED PROPERTY: SITUATE IN THE STATE OF OHIO, COUNTY OF MIAMI, TOWNSHIP OF WASHINGTON AND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 24, TOWN 8, RANGE 5 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIN ON THE PRESENT WEST CORPORATION LINE OF PIQUA, WHICH MARKS THE NORTHWEST CORNER OF INLOT 6003, AS SHOWN ON MEADOWLAWN SUBDIVISION, SECTION TWO, WHICH IS FILED IN MIAMI COUNTY RECORDER'S RECORD OF PLATS BOOK 8, PAGE 82; THENCE SOUTH 0° 54' 30" WEST, WITH THE PRESENT WEST CORPORATION LINE OF PIQUA, 371.45 FEET TO AN IRON PIN; THENCE SOUTH 0° 54' 30" WEST, WITH THE PRESENT WEST CORPORATION LINE OF PIQUA, 155.0 FEET TO A POINT; THENCE NORTH 89° 05' 30" WEST 511.50 FEET TO A POINT ON THE SOUTH LINE OF THE PIQUA PLAZA DEVELOPMENT PROPERTY; THENCE NORTH 74° 03' EAST, WITH THE SOUTH LINE OF SAID PIQUA PLAZA DEVELOPMENT PROPERTY, 534.47 FEET TO THE PLACE OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS A TOTAL OF 0.910 ACRES.

PARCEL NO. 3

TOGETHER WITH THE NON-EXCLUSIVE RIGHTS AND EASEMENTS CREATED BY THE DECLARATION OF EASEMENT, DATED JULY 1, 1980, FILED FOR RECORD DECEMBER 5, 1980 AND RECORDED IN DEED BOOK 554, PAGE 283, MIAMI COUNTY, OHIO RECORDS.

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EXHIBIT B
DESCRIPTION OF COLLATERAL

[BANK IS HEREIN REFERRED TO EITHER AS "SECURED PARTY" OR AS "MORTGAGEE" AND BORROWER IS HEREIN REFERRED TO EITHER AS "DEBTOR" OR "MORTGAGOR".]

ALL OF MORTGAGOR'S RIGHT, TITLE, INTEREST, ESTATE, CLAIM AND DEMAND, EITHER AT LAW OR IN EQUITY, NOW OR HEREAFTER, IN AND TO:

(A) ALL LEASES AND/OR SUBLICENSES NOW EXISTING OR HEREAFTER MADE (THE "LEASES") OF ALL OR ANY PART OF THE PROPERTY DESCRIBED IN EXHIBIT A, AND ANY BUILDINGS, STRUCTURES OR IMPROVEMENTS NOW OR HEREAFTER LOCATED THEREON (THE "PROPERTY"), AS SUCH LEASES ARE NOW OR MAY HEREAFTER BE MODIFIED OR EXTENDED;

(B) ALL RENTS, INCOME AND PROFITS DUE OR TO BECOME DUE UNDER THE LEASES (INCLUDING ALL PROCEEDS UNDER ANY OPTIONS CONTAINED IN THE LEASES) AND ALL COVENANTS CONTAINED IN THE LEASES RELATING TO THE COLLECTION AND ENFORCEMENT OF COLLECTION OF SUCH RENTS, INCOME OR PROFITS;

(C) ALL GUARANTEES OF THE OBLIGATIONS OF THE LESSEES UNDER ANY OF THE LEASES;

(D) ANY AND ALL SECURITY DEPOSITS OR OTHER SECURITY WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF;

(E) ALL CHATTELS, FIXTURES, BUILDING MATERIALS, MACHINERY, INVENTORY, APPARATUS, EQUIPMENT, ARTICLES AND/OR OTHER PERSONAL PROPERTY NOW OR HEREAFTER LOCATED ON OR USED OR USABLE IN CONNECTION WITH THE PROPERTY OR ANY BUSINESS CONDUCTED THEREON, WHETHER OR NOT THE SAME HAVE OR WOULD BECOME A PART OF THE PROPERTY BY ATTACHMENT THERETO, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL LIGHTING, HEATING, COOLING, VENTILATING, AIR CONDITIONING, POWER, INCINERATING, SPRINKLING, GAS, PLUMBING, WASTE REMOVAL AND REFRIGERATION SYSTEMS, ENGINES, FURNACES, BOILERS, PUMPS, TANKS, HEATERS, GENERATORS, MOTORS, MAINTENANCE EQUIPMENT, FIRE PREVENTION APPARATUS, DRYERS AND LAUNDRY EQUIPMENT, OFFICE EQUIPMENT; AND ALL PIPES, WIRES, FIXTURES AND APPARATUS FORMING A PART OF OR USED IN CONNECTION THEREWITH; ELEVATORS AND MOTORS; REFRIGERATION PLANTS OR UNITS; KITCHEN EQUIPMENT; COOKING APPLIANCES; CABINETS; PARTITIONS; DOORS; WINDOWS; FURNITURE; FURNISHINGS; LIVING AND ARTIFICIAL PLANTS AND PLANTERS; TELEVISIONS; TELEVISION SYSTEMS; ANTENNA AND/OR SATELLITE DISH SYSTEMS; BEDS; DRESSERS; RADIOS; LAMPS; SWITCHBOARDS; TELEPHONES; TELEPHONE SYSTEMS AND EQUIPMENT; COMPUTERS, COMPUTER EQUIPMENT AND SOFTWARE; CABINETS; SIGNAGE; STORM WINDOWS AND DOORS; WINDOW AND DOOR SCREENS; AWNINGS AND WINDOW AND DOOR SHADES; ALL DRAPES

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AND CURTAINS AND RELATED HARDWARE AND MOUNTING DEVICES; WALL-TO-WALL CARPETING; TABLES; CHAIRS; VENDING MACHINES; ALL EQUIPMENT, MACHINERY, FURNISHINGS, FIXTURES AND INVENTORY SITUATED UPON OR IN THE PROPERTY AND USED OR USABLE IN THE OPERATION THEREOF; AS WELL AS ALL ADDITIONS, IMPROVEMENTS, SUBSTITUTIONS AND REPLACEMENTS THERETO, AND PROCEEDS THEREOF; WITH RESPECT TO ANY PERSONAL PROPERTY WHICH IS SUBJECT TO A CONDITIONAL BILL OF SALE, LEASE, SECURITY AGREEMENT, MORTGAGE OR OTHER LIEN COVERING SUCH PROPERTY, ALL THE RIGHT, TITLE AND INTERESTS OF MORTGAGOR IN AND TO ANY AND ALL SUCH PERSONAL PROPERTY AND ANY AND ALL SUCH CONDITIONAL BILLS OF SALE AND/OR LEASES, TOGETHER WITH THE BENEFITS OF ANY DEPOSITS OR PAYMENTS NOW OR HEREAFTER MADE BY MORTGAGOR, OR THE PREDECESSORS OR SUCCESSORS IN TITLE TO MORTGAGOR; ALL OF THE RECORDS AND BOOKS OF ACCOUNT NOW OR HEREAFTER MAINTAINED BY MORTGAGOR IN CONNECTION WITH THE PROPERTY AND/OR THE CONSTRUCTION, DEVELOPMENT, OPERATION AND/OR MANAGEMENT THEREOF AND/OR IN CONNECTION WITH THE OPERATION OF MORTGAGOR'S BUSINESS; ALL NAMES AS MAY BE USED IN CONNECTION WITH THE PROPERTY AND THE GOODWILL ASSOCIATED THEREWITH; ALL RENTS, ISSUES, PROFITS AND OTHER INCOMES WHETHER NOW EXISTING OR HEREAFTER ACQUIRED; ALL PROCEEDS OR SUMS PAYABLE IN LIEU OF OR AS COMPENSATION FOR THE LOSS OF OR DAMAGE TO ANY PROPERTY COVERED HEREBY, OR TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ALL BUILDINGS AND IMPROVEMENTS NOW OR HEREAFTER LOCATED THEREON, AND ALL RIGHTS IN AND TO ALL PRESENT AND FUTURE FIRE, HAZARD, BUILDER'S RISK, BUSINESS INTERRUPTION, RENTAL INTERRUPTION, FLOOD AND OTHER INSURANCE POLICIES REQUIRED TO BE MAINTAINED BY MORTGAGOR; ALL AWARDS MADE BY ANY PUBLIC BODY OR DECREED BY ANY COURT OF COMPETENT JURISDICTION FOR THE TAKING OR FOR DEGRADATION OF VALUE IN ANY EMINENT DOMAIN PROCEEDINGS, OR PURCHASE IN LIEU THEREOF; ALL OF MORTGAGOR'S INTEREST AND RIGHTS AS LESSOR IN AND TO ALL LEASES NOW OR HEREAFTER AFFECTING THE PROPERTY OR ANY PART THEREOF; ALL CONTRACT RIGHTS RELATING TO THE PURCHASE, INSTALLATION AND/OR MAINTENANCE OF ANY EQUIPMENT AND/OR CONSTRUCTION OF ANY IMPROVEMENTS (INCLUDING WITHOUT LIMITATION, ANY CONTRACTS WITH ARCHITECTS, ENGINEERS AND/OR CONTRACTORS); ALL ACCOUNTS AND GENERAL INTANGIBLES NOW OWNED OR EXISTING OR HEREAFTER CREATED OR ACQUIRED RELATED TO THE PROPERTY AND/OR THE OPERATION OF ANY BUSINESS WITH RESPECT THERETO; ALL PLANS, SPECIFICATIONS, DRAWINGS, STUDIES, SURVEYS, APPRAISALS AND OTHER SIMILAR WORK PRODUCT RELATED TO ALL OR ANY PART OF THE PROPERTY; ALL AGREEMENTS FOR THE PROVISION OF PROPERTY OR SERVICES TO OR IN CONNECTION WITH, OR OTHERWISE BENEFITTING, ALL OR ANY PART OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ALL MANAGEMENT AGREEMENTS, FRANCHISE AGREEMENTS, LICENSE AGREEMENTS AND CABLE TELEVISION AGREEMENTS; TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL RIGHTS IN AND TO ANY AND ALL BUILDING, ZONING, ENVIRONMENTAL AND OTHER

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PERMITS, LICENSES, APPROVALS, VARIANCES AND CONSENTS WHICH HAVE BEEN ISSUED OR ARE HEREAFTER ISSUED BY ANY GOVERNMENTAL ENTITY AND/OR UTILITY COMPANY OR PROVIDED IN CONNECTION WITH OR RELATED TO ALL OR ANY PART OF THE PROPERTY; AND ALL BONDS SECURING TO MORTGAGOR THE PAYMENT OR PERFORMANCE OF ANY OBLIGATION CONCERNING THE CONSTRUCTION, MAINTENANCE, REPAIR AND/OR USE OF ALL OR ANY PART OF THE PROPERTY;

(F) ALL DRAWINGS, PLANS, SPECIFICATIONS, SHOP DRAWINGS, RENDERINGS, DATA, STUDIES, REPORTS, APPRAISALS AND ANALYSIS NOW EXISTING OR HEREAFTER PREPARED BY MORTGAGOR, ITS AGENTS, CONTRACTORS, ARCHITECTS, ENGINEERS AND/OR EMPLOYEES IN CONNECTION WITH OR RELATED TO ALL OR ANY PART OF THE PROPERTY; AND

(G) ALL RIGHTS IN, TO AND UNDER, ALL MONIES DUE AND TO BECOME DUE PURSUANT TO AND ALL CLAIMS, DEMANDS AND CAUSES OF ACTION THAT MORTGAGOR NOW HAS OR WHICH MAY HEREAFTER ARISE AGAINST ALL PARTIES UNDER ALL CONTRACTS AND SUBCONTRACTS RELATED TO OR PROVIDING FOR THE DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO ALL OR ANY PART OF THE PROPERTY OR THE PROVISION OF LABOR, SERVICES OR MATERIALS THEREFOR, WHETHER NOW EXISTING OR HEREAFTER EXECUTED, AND ANY SUPPLEMENTS THERETO.

AND ALSO ALL OF MORTGAGOR'S RIGHT, TITLE AND INTEREST, ESTATE, CLAIM AND DEMAND, EITHER AT LAW OR IN EQUITY, NOW OR HEREAFTER IN AND TO:

(H) ACCOUNTS; DEPOSIT ACCOUNTS - ALL ACCOUNTS, ACCOUNTS RECEIVABLE, RECEIVABLES AND OTHER RECEIVABLES; CONTRACT RIGHTS; CHATTTEL PAPER; INSTRUMENTS AND DOCUMENTS; PROMISSORY NOTES; ANY OTHER OBLIGATIONS OR INDEBTEDNESS OWED TO MORTGAGOR FROM WHATEVER SOURCE ARISING; DEPOSITS, CREDITS, BALANCES, MONEY AND RIGHTS TO MONEY; ALL RIGHTS OF MORTGAGOR TO RECEIVE ANY PERFORMANCE OR ANY PAYMENTS IN MONEY OR KIND; ALL GUARANTEES OF THE FOREGOING AND SECURITY THEREFOR; ALL OF THE RIGHT, TITLE AND INTEREST OF MORTGAGOR IN AND WITH RESPECT TO THE GOODS, SERVICES, OR OTHER PROPERTY THAT GAVE RISE TO OR THAT SECURE ANY OF THE FOREGOING AND INSURANCE POLICIES AND PROCEEDS RELATING THERETO; ALL RIGHTS OF MORTGAGOR AS AN UNPAID SELLER OF GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO, THE RIGHTS TO STOPPAGE IN TRANSIT, REPLEVIN, RECLAMATION, AND RESALE; ALL BOOKS AND RECORDS RELATING TO OR EVIDENCING ANY OF THE FOREGOING; AND ALL OF THE FOREGOING WHETHER NOW OWNED OR EXISTING OR HEREAFTER CREATED OR ACQUIRED (THE "ACCOUNTS"). NOTWITHSTANDING THE FOREGOING, THE TERM "ACCOUNTS" AS USED HEREIN SHALL EXCLUDE ALL DEPOSIT, CHECKING, SAVINGS, INVESTMENT AND SIMILAR ACCOUNTS OF THE DEBTOR WITH BANK OR ANY AFFILIATE OF BANK.

(I) EQUIPMENT - ALL ASSETS AND TANGIBLE PERSONAL PROPERTY OF MORTGAGOR, INCLUDING, WITHOUT LIMITATION, ALL OF MORTGAGOR'S NOW OWNED OR HEREAFTER ACQUIRED MACHINERY, EQUIPMENT, FURNITURE,

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FURNISHINGS, FIXTURES, TOOLS, SUPPLIES, PLATES, CHINA, GLASSES, SILVER AND FLATWARE, POTS, PANS, COOKING IMPLEMENTS, LINENS, DECORATIONS, ARTWORK, PLANTS, PLANTERS, CARPETS, WALL AND FLOOR COVERINGS, DRAPERY, BEDS, LAMPS, TABLES, CHAIRS, MILLWORK, TELEPHONES AND SYSTEMS, PARTITIONS, COMPUTERS AND PERIPHERALS, TELEVISIONS, RADIOS, CLOCKS, STEREOS AND OTHER AUDIO EQUIPMENT, MOTOR VEHICLES AND OTHER TANGIBLE PERSONAL PROPERTY OF EVERY KIND AND DESCRIPTION, ALL PARTS THEREFOR, AND ALL IMPROVEMENTS, ACCESSIONS OR APPURTEINANCES THERETO, AND ALL OF THE FOREGOING WHETHER NOW OWNED OR EXISTING OR HEREAFTER CREATED OR ACQUIRED (THE "EQUIPMENT").

(J) GENERAL INTANGIBLES - ALL CHOOSES IN ACTION AND CAUSES OF ACTION, ALL CONTRACTS AND CONTRACT RIGHTS (INCLUDING, WITHOUT LIMITATION, INTERESTS AS LESSOR OR LESSEE IN LEASES AND INTERESTS AS SELLER IN THE SALE, TRANSFER OR DISPOSITION OF ALL OR ANY PART OF THE PROPERTY OR ITEMS DESCRIBED HEREIN), AND ALL OTHER INTANGIBLE PERSONAL PROPERTY OR GENERAL INTANGIBLES OF MORTGAGOR OF EVERY KIND AND NATURE (OTHER THAN ACCOUNTS), CORPORATE OR OTHER BUSINESS RECORDS, CUSTOMER LISTS, MAILING LISTS, TRADEMARKS, TRADE NAMES, TRADE SECRETS, GOODWILL, COPYRIGHTS, PATENTS, PATENT APPLICATIONS, BLUEPRINTS, PLANS, PROGRAMS, PROCESSES, REGISTRATIONS, LICENSES, PERMITS, FRANCHISES, OWNERSHIP INTERESTS IN ANY ENTITY, JUDGMENTS, TAX REFUND CLAIMS, INSURANCE PROCEEDS INCLUDING, WITHOUT LIMITATION, INSURANCE COVERING THE LIVES OF KEY EMPLOYEES ON WHICH MORTGAGOR IS BENEFICIARY, AND ANY LETTER OF CREDIT, GUARANTEE, CLAIM, SECURITY INTEREST OR OTHER SECURITY HELD BY OR GRANTED TO MORTGAGOR TO SECURE PAYMENT BY AN ACCOUNT DEBTOR OF ANY OF THE ACCOUNTS, ALL BOOKS AND RECORDS RELATING TO OR EVIDENCING ANY OF THE FOREGOING, AND ALL OF THE FOREGOING, WHETHER NOW OWNED OR EXISTING OR HEREAFTER CREATED OR ACQUIRED (THE "INTANGIBLES").

(K) INVENTORY - ANY INVENTORY, GOODS, MERCHANDISE, OR OTHER PERSONAL PROPERTY, RAW MATERIALS, PARTS, SUPPLIES, WORK-IN-PROCESS AND FINISHED PRODUCTS INTENDED FOR SALE, LEASE OR PROVISION UNDER OR IN CONNECTION WITH A CONTRACT FOR SERVICES OF EVERY KIND AND DESCRIPTION IN THE CUSTODY OR POSSESSION, ACTUAL OR CONSTRUCTIVE, OF MORTGAGOR, INCLUDING SUCH INVENTORY AS IS TEMPORARILY OUT OF THE CUSTODY OR POSSESSION OF MORTGAGOR, INCLUDING INSURANCE PROCEEDS FROM INSURANCE ON ANY OF THE ABOVE, ANY RETURNS UPON ANY ACCOUNTS AND OTHER PROCEEDS, RESULTING FROM THE SALE OR DISPOSITION OF ANY OF THE FOREGOING, INCLUDING WITHOUT LIMITATION, RAW MATERIALS, WORK-IN-PROCESS, AND FINISHED GOODS, AND ALL OF THE FOREGOING, WHETHER NOW OWNED OR EXISTING OR HEREAFTER CREATED OR ACQUIRED (THE "INVENTORY").

(L) PROCEEDS, ETC. - ALL PROCEEDS, PRODUCTS, OFFSPRING, RENTS AND PROFITS (IN WHATEVER FORM WHETHER CASH, CASH EQUIVALENT OR NON-CASH) OF THE ACCOUNTS, EQUIPMENT, INTANGIBLES, INVENTORY AND/OR ANY OF THE PROPERTY OR ITEMS DESCRIBED HEREIN, AND ALL ADDITIONS AND

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ACCESSIONS TO, REPLACEMENTS OF, INSURANCE OR CONDEMNATION PROCEEDS OF, AND DOCUMENTS COVERING, THE ACCOUNTS, EQUIPMENT, INTANGIBLES, INVENTORY AND/OR ANY OF THE PROPERTY OR ITEMS DESCRIBED HEREIN, ALL PROPERTY RECEIVED WHOLLY OR PARTLY IN TRADE OR EXCHANGE FOR THE ACCOUNTS, EQUIPMENT, INTANGIBLES, INVENTORY, AND/OR ANY OF THE PROPERTY OR ITEMS DESCRIBED HEREIN, AND ALL RENTS, ADVANCES, DEPOSITS, REVENUES, ISSUES, PROFITS AND PROCEEDS ARISING FROM THE SALE, LEASE, LICENSE, ENCUMBRANCE, COLLECTION, OR ANY OTHER TEMPORARY OR PERMANENT DISPOSITION OF, THE ACCOUNTS, EQUIPMENT, INTANGIBLES, INVENTORY AND/OR ANY OF THE PROPERTY OR ITEMS DESCRIBED HEREIN, OR ANY INTEREST THEREIN.

LOCATION - THE FOREGOING ITEMS ARE AND/OR SHALL BE LOCATED ON THE PROPERTY DESCRIBED IN EXHIBIT A, AND ALL BOOKS, PAPERS AND RECORDS RELATING TO OR EVIDENCING THE FOREGOING ARE AND/OR SHALL BE LOCATED ON SAID PROPERTY (EXHIBIT A) OR AT 1595 NE 163rd STREET, NORTH MIAMI BEACH, FLORIDA 33162 PROVIDED THAT THE SECURITY INTEREST OF MORTGAGEE SHALL ATTACH AND BE EFFECTIVE WHEREVER SUCH ITEMS MAY BE LOCATED.

INTENT - IT IS THE INTENT HEREOF AND OF MORTGAGOR AND MORTGAGEE THAT MORTGAGEE SHALL HAVE A FIRST AND BEST PRE- AND POST-BANKRUPTCY PETITION LIEN IN AND TO ALL OF THE FOREGOING AND A FIRST AND BEST LIEN AS TO ALL ITEMS WHICH MAY BE DEEMED "CASH COLLATERAL" UNDER 11 USC. IT IS ALSO THE INTENT HEREOF AND THE INTENT AND AGREEMENT OF MORTGAGOR AND MORTGAGEE THAT ALL REVENUE DERIVED FROM THE LEASING OF THE PROPERTY (REGARDLESS OF THE PROPERTY'S USE AND NATURE (INCLUDING WITHOUT LIMITATION ITS USE AND NATURE AS AN RETAIL OR ANY OTHER COMMERCIAL FACILITY)) SHALL BE AND BE DEEMED RENT DERIVED FROM THE UNDERLYING REAL ESTATE AND, ACCORDINGLY, SUBJECT TO THIS FINANCING STATEMENT. ANY PERSON OR ENTITY EXTENDING CREDIT TO DEBTOR AFTER THE RECORDING HEREOF SHALL BE DEEMED TO HAVE ASSENTED TO THE TERMS OF THIS PARAGRAPH ENTITLED "INTENT".

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Submitted by,

s/ Victoria L. Nilles
Victoria L. Nilles (0076616)
Trial Attorney
Valerie M. Munafo (0088769)
TAFT STETTINIUS & HOLLISTER LLP
40 N. Main St., Suite 1700
Dayton, OH 45423
(Ph) 937-228-2838
(Fax) 937-228-2816
vnilles@taftlaw.com

Attorneys for Defendant
Gator Piqua Partners, LLLP